

**United States District Court**

**EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

**OCT 25 2006**

DAVID J. MALANDRINO, CLERK  
BY  
DEPUTY \_\_\_\_\_

ROLLAND ALVIN BARNEY

§

§

V.

§

CASE NO. 4:06cv376

§

(Judge Schell/Judge Bush)

BRETT MARTIN, ET AL.

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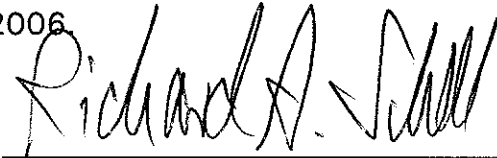
**MEMORANDUM ADOPTING REPORT AND RECOMMENDATION**  
**OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the Report of the United States Magistrate Judge in this action, this matter having been heretofore referred to United States Magistrate Judge Don D. Bush pursuant to 28 U.S.C. § 636. On September 28, 2006, the Report of the Magistrate Judge was entered containing his proposed findings of fact and recommendations that the case should be REMANDED back to the 336th Judicial District Court of Fannin County. On October 12, 2006, Plaintiff filed objections asserting (1) Defendant's original removal is defective in form, not substance; (2) there was no ruling on his motion to amend the original petition; (3) the petition was mis-characterized, generally; and (4) that the Plaintiff did not claim to be a person deriving his sovereignty from an Indian tribe.

The Court, having made a *de novo* review of the objections raised by the Plaintiff thereto, is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections of Plaintiff are without merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this Court. It is, therefore,

**ORDERED, ADJUDGED and DECREED** that the case is hereby **REMANDED** to the 336th Judicial District of Fannin County, Texas.

**SIGNED** this 25<sup>th</sup> day of October, 2006

A handwritten signature in black ink, appearing to read "Richard A. Schell", written over a horizontal line.

RICHARD A. SCHELL  
UNITED STATES DISTRICT JUDGE